

16-980 HUSTED V. A. PHILIP RANDOLPH INSTITUTE

DECISION BELOW: 838 F.3d 699

LOWER COURT CASE NUMBER: 16-3746

QUESTION PRESENTED:

This case considers the steps that States may take to maintain accurate voter-registration lists under the National Voter Registration Act of 1993 (NVRA) and the Help America Vote Act of 2002 (HAVA). These laws bar States from removing "the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote," but clarify that a State must remove a voter if the voter does not respond to a confirmation notice sent by the State and does not vote in the next two general federal elections. 52 U.S.C. §§ 20507(b)(2), 21083(a)(4)(A).

Since 1994, as part of its general list-maintenance program, Ohio has sent voters who lack voter activity over a two-year period the confirmation notice that the NVRA and HAVA both reference. If these voters do not respond to that notice and do not engage in any additional voter activity over the next four years (including two more federal elections), Ohio removes them from the list of registered voters and requires them to reregister if they otherwise remain eligible to vote. The Sixth Circuit held that this decades-old process violates §20507(b)(2) because Ohio uses a voter's failure to vote as the "trigger" for sending a confirmation notice to that voter.

The question presented is:

Does 52 U.S.C. § 20507 permit Ohio's list- maintenance process, which uses a registered voter's voter inactivity as a reason to send a confirmation notice to that voter under the NVRA and RAVA?

CERT. GRANTED 5/30/2017